

**ORIGINAL**

Before the  
Federal Communications Commission  
Washington, D.C. 20554

MAR - 1996

In the Matter of )  
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Amendment of the Commission's Rules ) WT Docket No. 96-6  
To Permit Flexible Service Offerings )  
in the Commercial Mobile Radio Services )  
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To: The Commission )

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**COMMENTS OF SMR SYSTEMS INC. AND DIGITAL RADIO, L.P.**

Pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"),<sup>1</sup> SMR Systems, Inc. ("SMR Systems") and Digital Radio, L.P. ("Digital") respectfully submit these Comments in response to the Commission's January 25, 1996 Notice of Proposed Rule Making ("NPRM") in the above-captioned proceeding.

Digital Radio, L.P. is a Specialized Mobile Radio ("SMR") licensee whose service area covers much of the mid-Atlantic states. SMR Systems, Inc. is an SMR licensee operating in and around Omaha, Nebraska. Because the Commission's NPRM would make these licensees eligible to provide fixed wireless services, the proposals set forth in the NPRM are of significant interest to both Digital and SMR Systems.

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<sup>1</sup> 47 C.F.R. § 1.415 (1995).

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## DISCUSSION

Digital and SMR Systems believe the Commission's *NPRM* proposes a useful expansion of the type of Commercial Mobile Radio Services ("CMRS") which they may offer.<sup>2</sup> Allowing SMR operators such as Digital and SMR Systems to provide fixed, as well as mobile, services will expand their ability to meet customer demand and introduce new services to their respective markets.<sup>3</sup> Moreover, allowing wireless carriers to offer fixed local loop and other services should produce much-needed competition in local loop services which frequently have been monopolized by a single land-line carrier.<sup>4</sup> By allowing CMRS operators to compete in the provision of fixed wireless services in the local loop, the *NPRM* advances the goals set forth in the 1996 Telecommunications Reform Act and the Omnibus Budget Reconciliation Act of 1993 to deregulate and make more competitive CMRS and other telecommunications services.<sup>5</sup>

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<sup>2</sup> *NPRM* at para. 9.

<sup>3</sup> See *NPRM*, para. 20 (acknowledging that the ability of a CMRS carrier to offer fixed wireless local loop services "adds value to the carrier's mobile services because it gives the mobile customer the option of using the fixed and mobile applications offered by a single provider.")

<sup>4</sup> See *NPRM* at para. 8, para. 16 ("Broadening the permissible service options for cellular and SMR results in those CMRS providers having more flexibility to meet market demand, including meeting demand that traditionally has been serviced by wireline common carriers.")

<sup>5</sup> See 47 U.S.C. § 157 (Budget Act); *Telecommunications Act of 1996*, Conference Report, Joint Explanatory Statement of the Committee of the Conference, Cong. Rec. H1107 (daily ed. Jan. 31, 1996).

The *NPRM* requests comment about what fixed services CMRS carriers may offer and how those services should be regulated.<sup>6</sup> SMR Systems and Digital agree with the *NPRM*'s proposal that the Commission should continue to "treat fixed wireless local loop services as an integral part of the CMRS services offered by a CMRS provider, so long as the carrier otherwise offers interconnected, for-profit mobile service to the public on licensed CMRS spectrum."<sup>7</sup> Such regulation is consistent with the framework established by the CMRS *Second Report and Order* that all auxiliary services provided by mobile licensees be included in the definition of CMRS.<sup>8</sup>

Moreover, in regulating the provision of fixed wireless services, the Commission should allow the market to decide the value of fixed wireless services and it should take pains to avoid regulation which unduly suppresses technological innovation.<sup>9</sup> SMR providers have been innovative in developing digital technology which allows them to compete with cellular

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<sup>6</sup> *NPRM*, para. 17.

<sup>7</sup> *NPRM*, para. 20.

<sup>8</sup> *Matter of Implementation of Sections 3(n) and 332 of the Communications Act*, GN Docket No. 93-252, *Second Report and Order*, 9 FCC Rcd 1411, 1424, at para. 36 (1994). See also 47 C.F.R. § 20.7 (1995).

<sup>9</sup> As the *NPRM* acknowledges, "the broad goal of [the 1993 Budget Act] was to ensure that economic forces -- not disparate regulatory requirements -- shape the development of the CMRS marketplace." *NPRM* at para. 19. See also *Telecommunications Act of 1996*, Conference Report, Joint Explanatory Statement of the Committee of the Conference, Cong. Rec. H1107 (daily ed. Jan. 31. 1996).

carriers and personal communications service ("PCS") providers in the provision of mobile services.<sup>10</sup> If unduly burdensome regulation is avoided, SMR providers will be able to continue that innovation, and thereby increase competition in the provision of wireless local loop and other services, including wireless Internet access, electronic funds transfers, point-of-purchase credit card verification, and remote monitoring.<sup>11</sup>

Finally, the *NPRM* requests comment on what SMR service rules should be changed to implement the proposals advanced by the Commission.<sup>12</sup> SMR and Digital note that Section 90.419 of the Commission's rules must be substantially broadened to permit the provision of fixed wireless local loop or other services over SMR licensed facilities, rather than remain limited to the few situations listed in that rule.<sup>13</sup> Such a rule change would advance the public interest by providing consumers with the benefits of competition and technological innovation discussed in these Comments.

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<sup>10</sup> *Matter of Implementation of Sections e(n) and 332 of the Communications Act*, GN Docket No. 93-252, *Third Report and Order*, 9 FCC Rcd 7988 at paras. 72-73 (1994).

<sup>11</sup> *NPRM* at para. 22.

<sup>12</sup> *NPRM* para. 17.

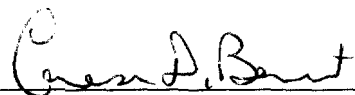
<sup>13</sup> 47 C.F.R. § 90.419 (1995).

## CONCLUSION

For these reasons, Digital and SMR support the NPRM's proposals to authorize fixed wireless services and urge the Commission to adopt those proposals and allow CMRS carriers to provide all manner of fixed wireless services in a regulatory environment which promotes innovation and expansion of services to consumers.

Respectfully submitted,

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March 1, 1996